

RECOMMENDATION TO THE PROFESSIONALISM COMMISSION  
FROM THE SUBCOMMITTEE ON DISCOVERY ABUSE,  
INCLUDING THE USE OF DISCOVERY MASTERS

The Professionalism Commission has reviewed the findings of the Professionalism Task Force and has also confirmed through its own investigation the outstanding problem of discovery abuse in civil cases. As a result, the Commission requests that the Court of Appeals acknowledge the problem by adopting the following recommendations:

1. That the MSBA revise and expand the *Maryland Discovery Guidelines* to address the concerns voiced throughout the state and reflected in the Report of the Court of Appeals Task Force on Professionalism; and that the MSBA submit the revised Guidelines to the Rules Committee and to the Court;

2. That the Maryland Judiciary web site be expanded to include discovery opinions from trial courts, in the same manner that the site now publishes opinions from the trial courts in the business and technology case management system;

3. That the Rules Committee expand and annotate the standard discovery forms now found in the Appendix to the Maryland Rules and add comment that the standard forms are presumptively proper;

4. That the Conference of Circuit Court Judges formulate a uniform discovery protocol designed to ensure that discovery is completed and disputes resolved in a timely fashion; and that the protocol include:

A. At the request of either party in a case, the Court may schedule a discovery conference within 30 days of the filing of an answer. The conference may result in a discovery plan and scheduling order.

B.

1. In Baltimore City, Baltimore County, Anne Arundel County, Montgomery County, and Prince George's County, that the Administrative Judge appoint a specific judge (consideration to be given to use of retired judges) to handle all discovery disputes; and that the discovery judge have authority to assign a discovery master as necessary, for first level dispute resolution;

2. In all other counties, that the Administrative Judge appoint a standing discovery master or assign, as necessary, a special discovery master to the specific case.

- C. Consider changes in the Maryland Rules to accomplish the following:
1. Facilitate the process for bringing discovery disputes before the Court, including the shortening of time for the filing of responses to motions seeking relief in such disputes;
  2. After the time for response to motions for discovery relief has passed, provide for prompt referral to the designated Judge or Discovery Master for resolution;
  3. Provide procedures for the Judge's prompt resolution of exceptions to the discovery master's recommendations.
  4. Add to the rule or comment that, in resolving discovery disputes, a Discovery Master or Judge may take into consideration any violations of the Maryland Discovery Guidelines.

As Amended: 12/13/05